

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY	
Robertson, Anschutz & Schneid, P.L. 6409 Congress Ave., Suite 100 Boca Raton, FL 33487 Telephone Number 561-241-6901 Attorneys For Secured Creditor Aleisha C. Jennings, Esq. (NJ-2114)	CASE NO.: 18-15323-CMG CHAPTER 13 Objection to Confirmation of Debtor's Chapter 13 Plan
In Re: Richard Halley Debtor.	

OBJECTION TO CONFIRMATION OF DEBTOR'S CHAPTER 13 PLAN

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR FREMONT HOME LOAN TRUST 2005-1, ASSET-BACKED CERTIFICATES, SERIES 2005-1 ("Secured Creditor"), by and through its undersigned counsel, objects to confirmation of Debtor's Chapter 13 Plan (DE # 10), and states as follows:

1. Debtor, Richard Halley ("Debtor"), filed a voluntary petition pursuant to Chapter 13 of the Bankruptcy Code on March 19, 2018.
2. Secured Creditor holds a security interest in the Debtor's real property located at 87-89 LEWIS ST, PHILLIPSBURG, NJ 08865, by virtue of a Mortgage recorded on January 26, 2005 in Book 3894, at Page 228 of the Public Records of Warren County, NJ. Said Mortgage secures a Note in the amount of \$225,250.00.
3. The Debtor filed a Chapter 13 Plan on April 02, 2018.
4. The Plan proposes a speculative loan modification that has neither been offered nor approved and fails to mention the total amount of arrears owed. In accordance with Secured Creditor's timely filed Proof of Claim, the correct pre-petition arrearage due Secured Creditor is \$210,458.09. Therefore, the Plan is not in compliance with the requirements of 11 U.S.C. §§ 1322(b)(3) and 1325(a)(5) and cannot be confirmed. Secured Creditor objects to any plan which proposes to pay it anything less than \$210,458.09 as the pre-petition arrearage over the life of the plan.

5. In addition to the loan modification proposal, the Plan proposes to satisfy Secured Creditor's claim by cramming down the lien and paying \$132,030.00. Secured Creditor disputes this valuation. Until a final determination on valuation occurs, it would be premature to consider confirming Debtor's Plan.
6. The Plan proposes to pay only 0.00%, which is inadequate to assure that property distributed to Secured Creditor under the plan will have a value, as of the effective date of the plan that is not less than the allowed amount of such claim.
7. In *Till v. SCS Credit Corp.*, 541 U.S. 465, 124 S.Ct. 1951(2004), the U.S. Supreme Court addressed the appropriate cram down interest rate under 11 U.S.C. § 1325(a)(5)(B)(ii). *Till* adopts the "formula approach," which looks to the national prime rate, as reported daily in the press, and adds an appropriate "risk adjustment." Although *Till* does not specify what the risk adjustment should be, it states that courts generally approve adjustments of 1-3%. Accordingly, Secured Creditor maintains that, lacking evidence to the contrary, a risk adjustment of 7% is reasonable.
8. The prime rate, as published in the Wall Street Journal, is currently 5%. Accordingly, Secured Creditor maintains the Court should not approve a cram down interest rate less than 7%.
9. The Plan does not appear feasible due to inadequate treatment of Secured Creditor's claim. Thus, the plan violates the provisions of 11 U.S.C. § 1325(a)(3) and cannot be confirmed.

WHEREFORE, Secured Creditor respectfully requests this Court sustain the objections stated herein and deny confirmation of Debtor's Plan, and for such other and further relief as the Court may deem just and proper.

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CERTIFICATION OF SERVICE

1. I, Aleisha C. Jennings, represent DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR FREMONT HOME LOAN TRUST 2005-1, ASSET-BACKED CERTIFICATES, SERIES 2005-1
in this matter.
2. On 7/17/2018, I caused a copy of the following pleadings and/or documents to be sent to the parties listed in the chart below: Objection to Confirmation of Debtor's Chapter 13 Plan
3. I certify under penalty of perjury that the above documents were sent using the mode of service indicated.

7/17/2018

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<u>Name and Address of Party Served</u>	<u>Relationship of Party to the Case</u>	<u>Mode of Service</u>
Tomas Espinosa, ESQ 8324 Kennedy Boulevard North Bergen, NJ 07047	Attorney for Debtor	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other <hr/> (as authorized by the court*)
Richard Halley 662 Wilbur Avenue Phillipsburg, NJ 08865	Debtor	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other <hr/> (as authorized by the court*)
Albert Russo Chapter 13 Trustee CN 4853 Trenton, NJ 08650	Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other <hr/> (as authorized by the court*)
U.S. Trustee Office of the US Trustee One Newark Center Ste 2100 Newark, NJ 07102	U.S. Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other <hr/> (as authorized by the court*)